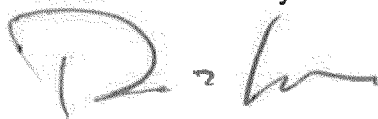


State Water Resources Control Board

TO: Governing Board Members
Santa Monica Bay Restoration Commission



FROM: David P. Coupe
Attorney IV
OFFICE OF CHIEF COUNSEL

DATE: December 13, 2017

SUBJECT: Settlement of Litigation Filed by the Ballona Wetlands Land Trust Against the
Santa Monica Bay Restoration Commission

This memorandum serves to inform you that a lawsuit filed by the Ballona Wetlands Land Trust has been settled between the Ballona Wetlands Land Trust (Trust) and the Santa Monica Bay Restoration Commission (Commission). This memo briefly outlines the past litigation and the settlement terms.

I. BACKGROUND

On October 16, 2016, the Trust filed a lawsuit against the Commission alleging violations of the California Constitution's prohibition against gifts of public funds and violations of the State Records Management Act. Approximately one year later, the Trust and Commission engaged in settlement discussions as part of a Mandatory Settlement Conference conducted by the Honorable Helen Bendix in the Los Angeles County Superior Court. In November of 2017, the results of the settlement discussions were memorialized in a settlement agreement signed by the Commission and the Trust. Earlier this month, Judge Chalfant of the Los Angeles County Superior Court entered a judgment in accordance with the settlement agreement.

II. SETTLEMENT TERMS

The settlement terms are as follows:

1. At the Commission's request, the State Water Resources Control Board shall issue a written statement that office space provided by the State Water Board to the Commission is used solely to further the implementation of the Commission's Bay Restoration Plan and its Annual Work Plans.
2. The Commission will include a statement in each future Annual Work Plan affirming that office space provided by the State Water Board to the Commission has been used solely

FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

to perform tasks of the Santa Monica Bay National Estuary Program as defined in the Bay Restoration Plan and Annual Work Plans.

3. The Commission will work with The Bay Foundation (Foundation) to amend the Memorandum of Agreement to ensure that records created or used by the Commission or Foundation pursuant to implementation of the Bay Restoration Plan or Annual Work Plans are treated as public records and subject to disclosure as may be required by law.
4. The Commission will request that the Foundation provide training to its employees and consultants concerning the retention of records that implement the Bay Restoration Plan or Annual Work Plans.
5. The Commission and Trust agree to utilize the dispute resolution procedures in Attachment C of the Commission's governing Memorandum of Understanding to attempt collaborative resolution of future disputes.
6. The Commission agrees to pay \$15,000 for attorney's fees and costs incurred by the Trust. Please note that any payment is subject to a specific legislative appropriation.

III. CONCLUSION

The Executive Committee has been continually apprised of the litigation leading up to the settlement. Please also note that the Commission admits of no wrongdoing, fault, responsibility, or liability and that the Commission and Trust resolved the dispute through settlement in order to avoid continued and expensive litigation.

If you have any additional questions or concerns, please send me a separate email at David.Coupe@waterboards.ca.gov or call me at (510) 622-2306.

cc: Guangyu Wang, Chief Administrative Director, Santa Monica Bay Restoration Commission